

CITY OF MUSKEGON  
**ZONING BOARD OF APPEALS**  
REGULAR MEETING  
MINUTES

**October 10, 2017**

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, E. Fordham, S. Warmington, B. Larson

MEMBERS ABSENT: W. German

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: K. Kuyper, Nederveld; T. Hamstra, Hamstra Builders; C. Jados, 1970 Terrace St.

**APPROVAL OF MINUTES**

A motion that the minutes of the regular meeting of September 12, 2017 be approved was made by S. Warmington, supported by E. Fordham and unanimously approved.

**PUBLIC HEARING**

**Hearing; Case 2017-05:** Request for a variance from Section 404 of the zoning ordinance to allow a home to be constructed on a parcel that is less than 6,000 sq ft in size at 1723 Edgewater St, by Melanie B Thornton. M. Franzak presented the staff report. The property owner would like to demolish the existing home and build new; however, the existing lot does not meet the minimum lot size of 6,000 square feet. The lot only measures 4,994 square feet, but it does meet the minimum road frontage requirement of 50 feet, with 51.5 feet of frontage on Edgewater. The property is zoned R-1, Single Family Low Density Residential District, and development requirements for this district were provided to board members. The home does not currently meet the minimum side setback requirements of six feet, as it sits nearly on the property line. This variance request is for a waiver of the minimum lot size only, meaning a new home would have to meet all of the setback requirements. Notification letters were sent out to properties within 300 feet of this property. At the time of this writing, staff had received the following comments: S. Balaskovitz of 1683 Edgewater St indicated that she was not in favor of the request. A. Schaub lived in California but owned 1731 Edgewater; she was concerned that a two-story house would block her view of the water. C. Bieszka, 1689 Edgewater, stated that he was also opposed to the request due to the blocking of water views and the possibility that the home would become a rental property. T. Blake, owner of 3222 Park Place, 1677 Edgewater and 1702 Edgewater called to say that he is in favor of the request.

M. Franzak pointed out that the renderings of the proposed new structure showed 10-foot side setbacks, which would bring the house closer to conformance with the ordinance. A house up to two stories would be allowed on the site if the requested variance was approved. E. Fordham

asked if the ZBA would have the authority to regulate the height of the home. M. Franzak stated that they would not. K. Kuyper spoke on behalf of the property owner. She stated that the lot was non-conforming and not a lot of record, and the ordinance rendered the lot unbuildable. They needed a variance in order to preserve their property rights to build a single-family home on the lot. She stated that the requested variance would bring the property closer to compliance with the zoning ordinance, and there would be no profit or financial gain to the owner if it were granted. T. Hamstra was the builder. He stated that as the house currently sat, it was located partly on the neighbor's property, and much of it sat right on the lot line. The property owner was not asking for any rights that others in the area did not have. He also stated that the owner used it as a summer home, not a rental.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

The following findings of fact were offered: a) that there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) that the dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) that the authorizing of such dimensional variance will not be of substantial detriment to adjacent properties, d) that the alleged difficulty is caused by the ordinance and not by any person presently having an interest in the property, or by any previous owner, e) that the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) that the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request to allow a home to be constructed on a parcel that is less than 6,000 square feet in size at 1723 Edgewater St be approved based on the review standards in Section 2502 of the Zoning Ordinance, was made by S. Warmington, supported by B. Larson and unanimously approved, with R. Hilt, E. Fordham, S. Warmington, and B. Larson voting aye.

**Hearing; Case 2017-06:** Request for a variance from Section 2331 of the zoning ordinance to allow a six-foot tall fence in a front yard at 1970 Terrace St, by Cynthia Jados. M. Franzak presented the staff report. The property owner would like to install a six-foot privacy fence behind her home. However, this property is located between two streets, so according to the ordinance, it has two front yards and no back yard; six-foot tall fences are not allowed in front yards. The property has frontage on Terrace St and Smith St. The three properties to the north also have frontage on both streets. Smith street dead-ends behind 1970 Terrace St. Notification letters were sent out to properties within 300 feet of this property.

B. Larson stated that he drove by the location and the yard facing Smith St. did not appear to be a "front" yard. He stated that the property was in an inconspicuous location and he did not foresee any hardship this could cause the neighbors. R. Hilt asked what type of fence they planned to erect. C. Jados stated that it would be a six-foot wood privacy fence so they could enjoy their back yard.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

The following findings of fact were offered: a) that there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) that the dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, i.e. that they can have some privacy when using their back yard, c) that the authorizing of such dimensional variance would not be of substantial detriment to adjacent properties, d) that the alleged difficulty is caused by the ordinance and not by any person presently having an interest in the property, or by any previous owner (i.e. the ordinance limiting fences in front yards, and designating this back yard as a front, due to the street running behind it), e) that the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) that the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request for 1970 Terrace St, to allow a six-foot tall fence in the front yard along Smith St, be approved based on the review standards in Section 2502 of the Zoning Ordinance, was made by S. Warmington, supported by B. Larson and unanimously approved, with R. Hilt, E. Fordham, S. Warmington, and B. Larson voting aye.

#### OLD BUSINESS

None

#### OTHER

None.

There being no further business, the meeting was adjourned at 4:30 p.m.

DR